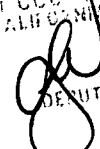


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 of all others similarly situated

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

ANDREW HECHT-NIELSEN, an individual
 and on behalf of all others similarly situated,

Plaintiff,

vs.

LIFETIME PRODUCTS, INC., a Utah
 corporation, and THE SPORTS
 AUTHORITY, INC., a Delaware corporation;
 and DOES 1 through 100, inclusive,

Defendants.

CASE **10CV 2205 BEN**

RBB

CLASS ACTION

COMPLAINT FOR:

- (1) VIOLATION OF CONSUMERS
 LEGAL REMEDIES ACT
 (CALIFORNIA CIVIL CODE
 SECTION 1750 ET SEQ.);
- (2) VIOLATION OF BUSINESS &
 PROFESSIONS CODE SECTIONS
 17200 *ET SEQ.* (CALIFORNIA
 UNFAIR COMPETITION LAW);
 AND
- (3) VIOLATION OF BUSINESS &
 PROFESSIONS CODE SECTION
 17533.7 (CALIFORNIA FALSE
 "MADE IN USA" CLAIM).

DEMAND FOR JURY TRIAL
[FRCP 38]



COMES NOW, plaintiff ANDREW HECHT-NIELSEN ("Plaintiff"), as an individual and on behalf of the general public and all others similarly situated, by his undersigned attorneys, alleges as follows:

NATURE OF THE CASE

1. This is a putative nationwide class action case brought on behalf of all purchasers of basketball equipment products manufactured, distributed, marketed, and/or sold by defendant LIFETIME PRODUCTS, INC. ("Lifetime") and THE SPORTS AUTHORITY, INC. ("Sports Authority") (Lifetime and Sports Authority and the DOE defendants are collectively referred to hereinafter as "Defendants") throughout the United States. Through an unlawful, deceptive and unfair course of conduct, Defendants manufactured, marketed, and/or sold a variety of residential basketball hoop products throughout the United States with the false designation and representation that Defendants' basketball products were "MADE IN USA." The "MADE IN USA" claim is prominently printed on the product packaging along with an image of the American flag.¹ Despite true facts to the contrary, the offending basketball products are substantially made, manufactured or produced from component parts that are manufactured outside of the United States in violation of California law, federal law, the laws of the other 49 states and the District of Columbia. In fact, the majority of product is made from component parts manufactured *outside the United States*. For example, the net, the compression spring, the hex nuts, the bolts and the nuts are all Made in China.

PARTIES

2. Plaintiff is an individual residing in San Diego, California.

3. Defendant Lifetime Products, Inc. is a corporation that is organized and exists under the laws of the State of Utah. Lifetime Products, Inc. may be served with process in this matter by serving its registered agent for service of process as follows: Barry Mower, Box

¹ Plaintiff intends to seek class wide relief on behalf of all purchasers of any Lifetime residential basketball hoop product that was labeled as "Made in USA" but incorporated foreign-made component parts in violation of California and federal law – not just the specific model purchased by Plaintiff.

1 160010-Bldg D11 FRPT, Clearfield, UT 84016.

2 4. Lifetime is a leading manufacturer of residential basketball hoop products.
3 According to its website, "Lifetime Products, Inc. is a privately-held company headquartered in
4 Clearfield, Utah. With products sold in 58 countries, Lifetime is the world's leading
5 manufacturer of polyethylene folding tables, chairs, and residential basketball hoops. With other
6 offerings from outdoor sheds and carts to kayaks and soccer goals, Lifetime continues to develop
7 innovative products For The Way You Live™." One of the products Lifetime manufacturers and
8 sells to California retailers is the Slam It® – Rim ("Rim") purchased by Plaintiff at Sports
9 Authority on or about July 18, 2010 in San Diego.

10 5. Defendant Sports Authority, Inc. is a corporation that is organized and exists
11 under the laws of the State of Delaware. Defendants' principal place of business is 1050 W
12 Hampden Ave, Englewood, CO 80110. Sports Authority may be served with process in this
13 matter by serving its California registered agent for service of process, The Corporation
14 Company, 1675 Broadway, Suite 1200, Denver, CO 80202. According to its website, the Sports
15 Authority "is headquartered in Englewood, Colorado. It operates over 450 stores in 45 U.S.
16 states under The Sports Authority. The Company's website, located at sportsauthority.com is
17 operated by GSI Commerce, Inc. Sports Authority has a rich history, dating back almost a
18 century, of being an industry leader in providing a wide assortment of quality, brand-name
19 sporting goods."
20

21 6. The Rim purchased by Plaintiff was purchased at a Sports Authority store in San
22 Diego County. Sports Authority maintains the following website: www.sportsauthority.com.

23 7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein
24 as DOES 1-100, inclusive; therefore, Plaintiff sues these defendants by such fictitious names.
25 Plaintiff is informed and believes that each of the fictitious named defendants are legally
26 responsible in some manner for the occurrences herein alleged, assisted in and about the wrongs
27 complained herein by providing financial support, advice, resources or other assistance. Plaintiff
28

1 will amend the complaint to allege their true names and capacities when ascertained.

2 8. Plaintiff is informed and believes that all defendants were agents, servants and
3 employees of their co-defendants, and in doing the things hereinafter mentioned, were acting
4 within the scope of their authority as such agents, servants and employees with the permission
5 and consent of their co-defendants.

6 **JURISDICTION AND VENUE**

7 9. This Court has jurisdiction over this matter in that Plaintiff resides in the State of
8 California while Defendants are incorporated under the laws of the State of Utah and Delaware.
9 Diversity jurisdiction exists under 28 U.S.C. § 1332. This Court also has jurisdiction because
10 the amount in controversy in this matter exceeds \$5,000,000.00 as to all Class Members,
11 inclusive of attorneys' fees and costs, and injunctive relief and this matter is properly before this
12 Court under the Class Action Fairness Act, codified at 28 U.S.C. Sections 1332(d), 1453, and
13 1711-1715.

14 10. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(b), 1391(c) in
15 that this is the judicial district in which a substantial part of the acts and omissions giving rise to
16 the claims occurred.

17 **GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

18 11. Plaintiff incorporates herein each and every allegation contained in paragraphs 1
19 through 10, inclusive, as though fully set forth herein.

20 12. Defendants manufacture, market, and/or sell residential basketball hoop products
21 that have printed on the product itself and the product packaging that the lighting products are
22 "MADE IN THE USA."

23 13. Contrary to the representation, the residential basketball hoop products are
24 substantially and/or partially made, manufactured or produced with component parts that are
25 manufactured outside of the United States. The foreign component parts that constitute the Rim
26 (and presumably all other offending basketball hoop products across the entire Lifetime product
27 line) are the net, the compression spring, the hex nuts, the bolts and the nuts.
28

1 14. Defendants market, and continue to market, and represent to the general public
2 that its residential basketball hoop products are "MADE IN THE USA." In addition, Defendants
3 fraudulently concealed the material facts at issue herein by failing to disclose to the general
4 public the true facts regarding the country of origin designation appearing on the residential
5 basketball hoop products and packaging. The disclosure of this information was necessary in
6 order to make Defendants' representation not misleading for want of disclosure of these omitted
7 facts. Defendants possess superior knowledge of the true facts which were not disclosed, thereby
8 tolling the running of any applicable statute of limitations.

9 15. Consumers are particularly vulnerable to these deceptive and fraudulent practices.
10 Most consumers possess very limited knowledge of the likelihood that products, including the
11 component parts therein, claimed to be made in the United States are in fact made in foreign
12 countries. This is a material factor in many individuals' purchasing decisions, as they believe
13 they are supporting American companies and American jobs.

14 16. Consumers generally believe that "MADE IN THE USA" products are higher
15 quality than their foreign-manufactured counterparts. Due to Defendants' scheme to defraud the
16 market, members of the general public were fraudulently induced to purchase Defendants'
17 products at inflated prices. On information and belief, and during the entirety of the relevant
18 four-year statutory time period, Defendants charged excess monies for its residential basketball
19 hoop products, in comparison to their competitors, based on the false "MADE IN THE USA"
20 designation that was intended to deceive the consumer. California and federal laws are designed
21 to protect consumers from this type of false representation and predatory conduct. Defendants'
22 scheme to defraud consumers is ongoing and will victimize consumers each and every day until
23 altered by judicial intervention.

24
25 **THE PLAINTIFF TRANSACTION**

26 17. On or about July 18, 2010, Plaintiff purchased the Rim in San Diego, California.
27 At the time of purchase, the product itself was marked with a "MADE IN USA" country of
28 origin designation when it was almost entirely comprised of component parts made outside of

1 the United States. Accordingly, Defendants were not entitled to lawfully make a "MADE IN
2 USA" representation on the product.

3 18. In each case when Plaintiff, and Class Members, purchased a Rim, they relied
4 upon Defendants' "MADE IN USA" representation in their purchasing decision, which is
5 typical of most U.S. consumers, and they were deceived as a result of Defendants' actions.
6 These purchasing decisions were supported by the "MADE IN USA" representation made by
7 Defendants, which is absent from most of Defendants' competitors. Plaintiff believed at the
8 time he purchased the Rim that he was supporting U.S. jobs and the U.S. economy.

9 19. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by
10 Defendants as a result of Defendants' false "MADE IN USA" claims set forth on the Rim.
11 Furthermore, he suffered an "injury in fact" by paying for something he believed was genuinely
12 manufactured in the USA, when it was not.

13 20. As such, the offending basketball products, made with foreign-made Chinese
14 component parts (yet unlawfully labeled "Made in USA"), are of inferior quality, less reliable,
15 and fail more often - all in all, the undeniable conclusion is that the improperly labeled
16 basketball products at issue in this litigation are "defective" (as compared to a similar product
17 made with 100% U.S.-made components parts).² Essentially, the Rim is not worth the purchase
18 price paid. The precise amount of damages will be proven at time of trial.

19 21. U.S. made component parts are subject to strict regulatory requirements, such as
20 environmental, labor, and safety standards. Chinese component parts are not subject to the
21 same U.S. manufacturing standards and are inherently of lower quality than their U.S. made
22 counterparts. Moreover, Chinese made component parts are less reliable and durable than their
23 U.S. made counterparts. As such, the Rim is of inferior quality. In sum, Plaintiff was falsely
24 induced to purchase a sub-standard product that he otherwise would not have purchased.

25
26
27 ² The dictionary defines the term *defective* as "lacking or deficient." Using substandard foreign-
28 made components parts in lieu of their U.S. made counterparts leads to a product that is
undeniably "lacking" and/or "deficient" from the baseline product (i.e., a 100% U.S.-made
product that contains 100% U.S.-made component parts).

1 22. Plaintiff and Class Members were undoubtedly injured as a result of Defendants'
2 false "MADE IN USA" representations that are at issue in this litigation.

3 **CLASS ALLEGATIONS**

4 23. Plaintiff hereby re-alleges and incorporates by reference each and every preceding
5 paragraph as though fully set forth herein.

6 24. Plaintiff brings this action, as set forth below, against Defendants, pursuant to
7 Rules 23(a), 23(b)(1), 23(b)(2), and 23(b)(3) of the Federal Rules of Civil Procedure ("Fed. R.
8 Civ. P."), individually and on behalf of a class consisting of all persons in the United States who
9 purchased one or more of Defendants' residential basketball hoop products during the relevant
10 four-year statutory time period that bore a "Made in USA" country of origin designation but
11 that contained foreign-made component parts (the "Nationwide Class"). Excluded from the
12 Nationwide Class are the Court and its employees; Defendants; any parent, subsidiary, or
13 affiliate of Defendants; and all employees and directors who are or have been employed by
14 Defendants during the relevant time period.

15 **Definition of the Subclass**

16 25. Subclass members as to Plaintiff's First, Second, and Third Claims for Relief are
17 all of Defendants' California customers who purchased Defendants' residential basketball hoop
18 products that contained foreign-made component parts (hereinafter the "Offending Products")
19 that bore a "Made in USA" designation in California during the relevant four-year statutory time
20 period.

21 **Class Action Requirements**

22 26. The numerosity requirement of Fed. R. Civ. P. 23(a)(1) is satisfied for each of the
23 foregoing Classes because the members of each Class are so numerous and geographically
24 dispersed that joinder of all Class members is impracticable. Plaintiff believes that there are at
25 least thousands of members of each Class located either, in the case of the Nationwide Class,
26 throughout the United States or, in the case of the California Class, in the State of California.
27
28

1 27. Common questions of fact and law exist here, satisfying the requirement of Rule
2 23(a)(2), including but not limited to:

- 3 a. whether Defendants participated in, or committed the wrongful
4 conduct alleged herein;
- 5 b. whether Defendants' acts, transactions, or course of conduct
6 constitute the violations of law alleged herein;
- 7 c. whether the members of the Nationwide Class and the California
8 Class have sustained and/or continue to sustain damages by reason of
9 Defendants' conduct, and, if so, the proper measure and appropriate
10 formula to be applied in determining such damages;
- 11 d. whether Defendants' unlawful conduct caused the members of the
12 Nationwide Class and the California Class to purchase defective products
13 that are less reliable than or failure more often than basketball products
14 that are made with 100% U.S.-made component parts;
- 15 e. whether the members of the Nationwide Class and the California
16 Class are entitled to damages; and
- 17 f. whether the members of the Nationwide Class and the California
18 Class are entitled to declaratory, injunctive, or other equitable relief.
19

20 28. Plaintiffs' claims are typical of the claims of all other members of the Nationwide
21 Class and respectively and violations of law by Defendants as do the other Class members'
22 claims. Accordingly, Plaintiff has satisfied the "typicality" requirements of Fed. R. Civ. P.
23 23(a)(3) with respect to the Nationwide Class and the California Class.

24 29. Plaintiff will fairly and adequately protect the interests of the other members of
25 the Nationwide Class and, respectively, the members of the California Class and has no interests
26 that are antagonistic to or which conflict with those of the other members of those Classes.
27 Plaintiff is committed to the vigorous prosecution of this action and has retained competent
28 counsel experienced in litigation of this nature to represent themselves and the other members

1 of the Nationwide Class, and, respectively, the members of the California Class; as such, the
2 requirements of Rule 23(a)(4) are satisfied.

3 30. Absent a representative class action, members of the Nationwide Class and the
4 California Class would continue to suffer the harm described herein, for which they would have
5 no remedy. Even if separate actions could be brought by individual purchasers, the resulting
6 multiplicity of lawsuits would cause undue hardship and expense for both the Court and the
7 litigants, as well as create a risk of inconsistent rulings and adjudications that might be
8 dispositive of the interests of similarly situated purchasers, substantially impeding their ability
9 to protect their interests, while establishing incompatible standards of conduct for Defendants.
10 The proposed Nationwide Class, and, respectively, the members of the California Class, thus
11 satisfy the requirements of Fed. R. Civ. P. 23(b)(1).

12 31. Defendants has acted or refused to act on grounds generally applicable to Plaintiff
13 and the other members of the Nationwide Class, and, respectively, the members of the
14 California Class, thereby rendering class certification and injunctive or declaratory relief with
15 respect to the Nationwide Class as a whole and the California Class, appropriate as well.
16 Therefore, certification under Fed. R. Civ. P. 23(b)(2) is appropriate.

17 32. As discussed above, numerous common questions of fact and law exist. These
18 questions predominate over the individual questions presented in this action. The predominance
19 requirement of Rule 23(b)(3) is thus satisfied.

20 33. A class action is the superior method for the fair and efficient adjudication of this
21 controversy, because joinder of all members of the Nationwide Class, and, respectively, the
22 members of the California Class, is impracticable. Because the damages suffered by individual
23 members of the Nationwide Class, and, respectively, the members of the California Class, may
24 be relatively small, the expense and burden of litigation would prevent Nationwide Class
25 members and members of the California Class from individually redressing the wrongs done to
26 them. Where, as here, the size and nature of individual Nationwide Class members' claims and
27 Statewide Class members' claims would allow few, if any, members of those Classes to seek
28 legal redress against Defendants for the wrongs complained of herein, a representative class

1 action is both the appropriate vehicle by which to adjudicate these claims and is essential to the
 2 interests of justice. Furthermore, a class action regarding the issues in this action creates no
 3 significant problems of manageability. The superiority and manageability requirements of Rule
 4 23(b)(3) are thus satisfied.

5 **FIRST CLAIM FOR RELIEF**

6 **(Violation of California Consumers Legal Remedies Act Against All Defendants)**

7 34. Plaintiff realleges and incorporates herein by reference all of the allegations
 8 contained in Paragraphs 1 through 33, inclusive, of this complaint as though fully set forth herein.

9 35. California Civil Code Section 1750 *et seq.* (entitled the Consumers Legal
 10 Remedies Act) provides a list of “unfair or deceptive” practices in a “transaction” relating to the
 11 sale of “goods” or “services” to a “consumer.” The Legislature’s intent in promulgating the
 12 Consumers Legal Remedies Act is expressed in Civil Code Section 1760, which provides, *inter*
 13 *alia*, that its terms are to be:

14 [C]onstrued liberally and applied to promote its underlying purposes,
 15 which are to protect consumers against unfair and deceptive business
 16 practices and to provide efficient and economical procedures to secure
 such protection.

17 36. Defendant’s products constituted “goods” as defined in Civil Code Section
 18 1761(a).

19 37. Plaintiff, and Class members, are each a “Consumer” as defined in Civil Code
 20 Section 1761(d).

21 38. Each of Plaintiff’s purchases of Defendant’s products constituted a “transaction”
 22 as defined in Civil Code Section 1761(e).

23 39. Civil Code Section 1770(a)(4) and (9) provides that “[t]he following unfair
 24 methods of competition and unfair or deceptive acts or practices undertaken by any person in a
 25 transaction intended to result or which results in the sale or lease of goods or services to any
 26 consumer are unlawful: Using deceptive representations or designations of geographic origin in
 27 connection with goods or services....Advertising good or services with intent not to sell them as
 28 marketed.”

1 40. Defendant violated Civil Code Section 1770(a)(4) and (9) by marketing and
2 representing that their products are "MADE IN USA" when they actually contain component
3 parts that are manufactured outside of the United States.

4 41. It is alleged on information and belief that Defendant's violations of the
5 Consumer's Legal Remedies Act set forth herein were done with awareness of the fact that the
6 conduct alleged was wrongful and were motivated solely for increased profit. It is also alleged
7 on information and belief that Defendants did these acts knowing the harm that would result to
8 Plaintiff and that Defendants did these acts notwithstanding that knowledge.

9 42. Plaintiff provided the requisite 30-day notice to Lifetime and Sports Authority,
10 which was sent pursuant to the CLRA on or about September 9, 2010. Therefore, Plaintiff and
11 Class Members seek actual and/or statutory damages against Lifetime and Sports Authority in
12 this litigation pursuant to Civil Code § 1780. The 30-day notice complied with the relevant
13 provisions of the Consumers Legal Remedies Act as it was a demand to correct, repair, replace,
14 or otherwise rectify the false country of origin designation as it relates to violating basketball
15 hoop products sold in California pursuant to California Civil Code Section 1782(a). No
16 response was ever forthcoming from Lifetime and Sports Authority in response to the CLRA
17 notice.

18 43. As a direct and proximate result of Defendants' violations of the Consumers
19 Legal Remedies Act, Plaintiff and Class members are entitled to the following remedies as
20 against Lifetime and Sports Authority: (a) actual damages according to proof at time of trial;
21 (b) a declaration that Defendants violated the Consumers Legal Remedies Act, (c) an injunction
22 preventing Defendants' unlawful actions, and (d) an award of punitive damages pursuant to §
23 1780(a)(4).

24 44. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by
25 Defendants as a result of Defendants' false "MADE IN U.S.A." claims set forth on the
26 basketball hoop products. Furthermore, he suffered an "injury in fact" by paying for a
27 substandard/defective product that he believed was genuinely manufactured in the USA, when it
28 was not. See Paragraphs 18-22 herein.

45. Plaintiff and Class Members were undoubtedly injured as a result of Defendants' false "MADE IN USA" representations that are at issue in this litigation.

SECOND CLAIM FOR RELIEF

(Violation of Business & Prof. Code Section 17200 *Et Seq.* Against All Defendants)

46. Plaintiff realleges and incorporates herein by reference all of the allegations contained in Paragraphs 1 through 45, inclusive, of this complaint as though fully set forth herein.

47. Business & Professions Code section 17200 *et seq.* provides that unfair competition means and includes "any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading marketing."

48. By and through their conduct, including the conduct detailed above, Defendants engaged in activities which constitute unlawful, unfair, and fraudulent business practices prohibited by Business & Professions Code Section 17200 *et seq.* Beginning at an exact date unknown as yet and continuing up through the present Defendants committed acts of unfair competition, including those described above, by engaging in a pattern of "unlawful" business practices, within the meaning of Business & Professions Code Section 17200 *et seq.*, by manufacturing, distributing, marketing residential basketball hoop products with a false country of origin designation and violating Section 17533.7 by falsely claiming that the products referenced herein are "MADE IN USA" that are made with component parts manufactured outside of the United States.

49. In addition, and pled on information and belief, beginning at an exact date unknown as yet and continuing up through the present Defendants committed additional acts of unfair competition, including those described above, by engaging in a pattern of "unlawful" business practices, within the meaning of Business & Professions Code Section 17200 *et seq.*, by misrepresenting their residential basketball hoop products country of origin as "MADE IN USA," so third-party distributors that sell Defendants' basketball hoop products to the federal government could unwittingly sell "foreign made" products in violation of the provisions of the Buy American Act. See 41 USC §§ 10a-10d.

1 50. Beginning at an exact date unknown as yet and continuing up through the present,
2 Defendants committed acts of unfair competition that are prohibited by Business and
3 Professions Code section 17200 *et seq.* Defendants engaged in a pattern of “unfair” business
4 practices that violate the wording and intent of the statutes, by engaging in practices that
5 threatens an incipient violation of law, or violates the policy or spirit of laws because its effects
6 are comparable to or the same as a violation of the law by manufacturing, distributing, and
7 marketing their residential basketball hoop products with a false country of origin designation
8 and violating Section 17533.7 by falsely claiming that their residential basketball hoop products
9 referenced herein are “MADE IN USA” when they actually contain component parts
10 manufactured outside of the United States.

11 51. Alternatively, Defendants engaged in a pattern of “unfair” business practices that
12 violate the wording and intent of the statutes, by engaging in practices that are immoral,
13 unethical, oppressive or unscrupulous, the utility (if any) of which conduct is far outweighed by
14 the harm done to consumers and public policy by manufacturing, distributing, marketing, and
15 advertising residential basketball hoop products with the false claim that the products referenced
16 herein are “MADE IN USA.”

17 52. Alternatively, Defendants engaged in a pattern of “unfair” business practices that
18 violate the wording and intent of the statutes, by engaging in practices wherein: (1) the injury to
19 the consumer was substantial; (2) the injury was not outweighed by any countervailing benefits
20 to consumers or competition; and (3) the injury was of the kind that the consumers themselves
21 could not reasonably have avoid by manufacturing, distributing, marketing, and advertising
22 residential basketball hoop products with the false claim that the products referenced herein are
23 “MADE IN U.S.A.”

24 53. Beginning at an exact date unknown as yet and continuing up through the present,
25 Defendants committed acts of unfair competition, including those described above, prohibited
26 by Business and Professions Code section 17200 *et seq.* by engaging in a pattern of “fraudulent”
27 business practices within the meaning of Business & Professions Code section 17200 *et seq.*, by
28 manufacturing, distributing, marketing residential basketball hoop products with a false country

1 of origin designation and violating Section 17533.7 by falsely claiming that the products
2 referenced herein are "MADE IN USA."

3 54. Defendant engaged in these unlawful, unfair and fraudulent business practices for
4 the primary purpose of collecting unlawful and unauthorized monies from Plaintiff and all
5 others similarly situated; thereby unjustly enriching Defendants.

6 55. As a result of the repeated violations described herein, Defendants received and
7 continue to receive unearned commercial benefits at the expense of their competitors and the
8 public.

9 56. Defendants' unlawful, unfair and fraudulent business practices presents a
10 continuing threat to the public in that Defendants continues to engage in unlawful conduct.

11 57. Such acts and omissions are unlawful and/or unfair and/or fraudulent and
12 constitute a violation of Business & Professions Code section 17200 *et seq.* Plaintiff reserves
13 the right to identify additional violations by Defendants as may be established through
14 discovery.

15 58. As a direct and legal result of their unlawful, unfair and fraudulent conduct
16 described herein, Defendants has been and will be unjustly enriched by the receipt of ill-gotten
17 gains from customers, including Plaintiff, who unwittingly provided their money to Defendants
18 based on Defendants' fraudulent country of origin designation.

19 59. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by
20 Defendants as a result of Defendant's false "MADE IN U.S.A." claims set forth on the
21 basketball products.

22 60. Plaintiff and Class Members were undoubtedly injured as a result of Defendant's
23 false "MADE IN U.S.A." representations that are at issue in this litigation.

24 61. In prosecuting this action for the enforcement of important rights affecting the
25 public interest, Plaintiff seeks the recovery of attorneys' fees, which is available to a prevailing
26 plaintiff in class action cases such as this.

27 ///

28 ///

THIRD CAUSE OF ACTION

(Violation of Business & Professions Code § 17533.7 Against All Defendants)

62. Plaintiff realleges and incorporates herein by reference all of the allegations contained in Paragraphs 1 through 61, inclusive, of this complaint as though fully set forth herein.

63. Business & Professions Code Section 17533.7 provides:

It is unlawful for any person, firm, corporation or association to sell or offer for sale in this State any merchandise on which merchandise or on its container there appears the words "Made in U.S.A." "Made in America," "U.S.A.," or similar words when the merchandise or **any article, unit, or part thereof**, has been entirely or substantially made, manufactured, or produced outside of the United States. (emphasis added).

64. Defendants (Lifetime and Sports Authority both violated this statute because both company's "offer for sale" violative products) violated Business & Professions Code Section 17533.7 by selling and offering to sell merchandise in the State of California with the "MADE IN USA" country of origin designation as fully set forth herein. The merchandise at issue in this case actually contains component parts that are manufactured in China in violation of California and federal law.

65. It is alleged on information and belief that Defendants' violations of Business & Professions Code Section 17533.7 was done with awareness of the fact that the conduct alleged was wrongful and were motivated solely for increased profit. It is also alleged on information and belief that Defendants did these acts knowing the harm that would result to Plaintiff and that Defendants did these acts notwithstanding that knowledge.

66. As a direct and proximate result of Defendants' violations of Business & Professions Code Section 17533.7, Plaintiff and Class members are entitled to restitution of excess monies paid to Defendants by Plaintiff and Class members relating to the false "MADE IN USA" claims on Defendants' basketball hoop products.

67. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by Defendants as a result of Defendants' false "MADE IN USA" claims set forth on the basketball hoop products. Furthermore, he suffered an "injury in fact" by paying for something he

1 believed was genuinely manufactured in the USA, when it was not. See also Paragraphs 18-22
2 herein.

3 68. Plaintiff and Class Members were undoubtedly injured as a result of Defendants'
4 false "MADE IN USA" representations that are at issue in this litigation.

5 69. In prosecuting this action for the enforcement of important rights affecting the
6 public interest, Plaintiff seeks the recovery of attorneys' fees, which is available to a prevailing
7 plaintiff in class action cases such as this.

8 **PRAYER**

9 WHEREFORE, Plaintiffs, on behalf of themselves, collectively on behalf of the
10 Nationwide Class, and respectively on behalf of the California Class they seek to represent,
11 respectfully request the following relief:

12 1. That the Court determine that this action may be maintained as a class action by
13 certifying this case as a nationwide class action;

14 2. That the Court certify Plaintiff to serve as a class representative in this case;

15 3. That Defendants' wrongful conduct alleged herein be adjudged and decreed to
16 violate the consumer protection, deceptive trade practice, and other statutory claims asserted, as
17 well as the warranty claims, and the common law of unjust enrichment;

18 4. Plaintiff and each of the other members of the Nationwide Class and each of the
19 other members of the California Class be awarded damages;

20 5. Plaintiff and each of the other members of the Nationwide Class and each of the
21 other members of the California Class recover the amounts by which Defendants have been
22 unjustly enriched;

23 6. Defendants be enjoined from continuing the wrongful conduct alleged herein and
24 required to comply with all applicable law;

25 7. Plaintiff and each of the other members of the Nationwide Class and each of the
26 other members of the California Class recover their costs of suit, including reasonable attorneys'
27 fees and expenses as provided by law; and
28

1 8. That Plaintiff and each of the other members of the Nationwide Class and each of
2 the other members of the California Class be granted such other and further relief as the nature of
3 the case may require or as this Court deems just and proper.

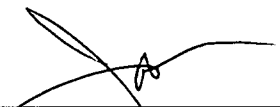
4 **DEMAND FOR JURY TRIAL**

5 Pursuant to Rule 38, Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by
6 jury with respect to all issues triable to a jury.

7
8 Dated: October 21, 2010

Respectfully submitted,

9 DEL MAR LAW GROUP, LLP

10
11
12 By: 
13 John H. Donboli
14 E-mail: jdonboli@delmarlawgroup.com
15 JL Sean Slattery
16 E-mail: sslattery@delmarlawgroup.com
17 Attorneys for: ANDREW HECHT
18 NIELSEN, an individual and on behalf of
19 all others similarly situated
20
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ANDREW HECHT-NIELSEN, an individual and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Del Mar Law Group, LLP, 2002 Jimmy Durante Blvd., Suite 100,
Del Mar, CA 92014

DEFENDANTS

LIFETIME PRODUCTS, INC.
THE SPORTS AUTHORITY, INC. and DOES 1-100

County of Residence of First Listed Defendant State of Utah
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

BY:

DEPUTY

10 CV 2205 BEN

RBB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party) *YCB*
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|-------------------------------------|----------------------------|---|----------------------------|-------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC Section 1332 *YCB*

Brief description of cause:

Violation of Consumer Statutes (False Country of Origin Designation)

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \$5,000,000+ CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/21/2010

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

19573 \$300

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

MB 10-22-10

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS019573
Cashier ID: mbain
Transaction Date: 10/22/2010
Payer Name: AMERICAN MESSENGER SERVICE

CIVIL FILING FEE
For: HECHT NIELSEN V LIFETIME PRODC
Case/Party: D-CAS-3-10-CV-002205-001
Amount: \$350.00

CHECK
Check/Money Order Num: 7555
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.